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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

Decision adopted by the Committee under article 4 (2) (c) of the Optional Protocol, concerning communication No. 80/2015*,**

Communication submitted by:	A.S. (represented by counsel, Niels-Erik Hansen)
Alleged victim:	The author
State party:	Denmark
Date of communication:	28 January 2015 (initial submission)
References:	Transmitted to the State party on 14 July 2015 (not issued in document form)
Date of adoption of decision:	26 February 2018

* Adopted by the Committee at its sixty-ninth session (19 February–9 March 2018).

** The following members of the Committee participated in the examination of the present communication: Ayse Feride Acar, Gladys Acosta Vargas, Nicole Ameline, Gunnar Bergby, Marion Bethel, Louiza Chalal, Naéla Gabr, Hilary Gbedemah, Nahla Haidar, Ruth Halperin-Kaddari, Yoko Hayashi, Lilian Hofmeister, Ismat Jahan, Dalia Leinarte, Rosario Manalo, Lia Nadaraia, Aruna Devi Narain, Bandana Rana, Patricia Schulz, Wenyan Song, Aicha Vall Verges.

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Decision on admissibility

1.1 The author of the communication is A.S., a national of Uganda, born in 1974. She sought asylum in Denmark but her application was rejected. She claims that her deportation to Uganda would violate her rights under articles 1–3 of the Convention on the Elimination of All Forms of Discrimination against Women. The Convention and the Optional Protocol thereto entered into force for Denmark in 1983 and 2000, respectively. The author is represented by counsel, Niels-Erik Hansen.

1.2 The author's application for asylum was rejected by the Danish Immigration Service on 31 January 2013. The Refugee Appeals Board dismissed appeals against that decision on 18 April 2013 and 5 December 2014. The author was ordered to leave Denmark by 20 December 2014. On 30 January 2015, the Committee, acting through its Working Group on Communications under the Optional Protocol, issued a request for interim measures of protection, requesting the State party to refrain from expelling the author pending the consideration of her case, pursuant to article 5 (1) of the Optional Protocol and rule 63 of the Committee's rules of procedure.

1.3 On 6 February 2015, the Danish Refugee Appeals Board suspended the time limit for the author's departure from Denmark until further notice in accordance with the Committee's request.

1.4 On 14 July 2015, the State party requested the Committee to lift the request for interim measures. On 12 May 2016, the Committee denied that request.

Factual background

2.1 The author is an ethnic Muganda of the Muslim faith, originating from Kayunga. She is single and has three children. She applied for asylum, on the grounds that she is a lesbian, which is why she is wanted in Uganda and at risk of being killed there.

2.2 As a child, the author was told not to have sex with a person of her own sex. She was forced to marry a man and they had three children before he died in 2005. As a single mother, she had to earn her own living. For the first time, she was able to have a girlfriend, although only in secret. Between 2007 and 2011, the author worked in a bar in Katwe that was frequented mostly by lesbians. She had a girlfriend, whom she had met in the bar. On 6 November 2011, three men made advances to the author in the bar and offered to have sex with her. She turned down their proposal and the men concluded that the bar was a place for lesbians. They became aggressive and started to smash things in the bar. On the same day, the author's home was ransacked and burned, and all her belongings were stolen. The police, looking for the author, also searched her mother's house.

2.3 On 8 November 2011, the author left by car for Rwanda. She stayed in Kigali for eight months, living in hiding with four other women, who were also planning to travel to Europe. A woman (named by the author) helped her to organize her departure. The author obtained a visa for Denmark from the Embassy of Norway in Kampala. On 22 July 2012, she started her journey to Denmark, via Brussels. She was not in possession of travel documents.

2.4 On 31 January 2013, the Danish Immigration Service rejected the author's asylum application. It noted that the author had entered Denmark in possession of a visa issued by the Embassy of Norway in Kampala, bearing the name A.N., born on 12 November 1973. On 18 April 2013, the Refugee Appeals Board remitted the case to the Service for reconsideration and further investigation into the author's identity. On 28 May 2014, the Service again rejected her application. On 5 December 2014, the Board upheld that decision. In the decision of the Service, the author's name

appeared as A.N., as it had not been corrected in the aliens register. On 8 December 2014, the Board corrected her name in the decision.

2.5 The author claims that, because no appeal can be made against the Board's decision, she has exhausted all available domestic remedies.

2.6 The author was baptised on 24 February 2013 in the Free Church of Horsens, Denmark.[1] She participated in lesbian, gay, bisexual and transgender community activities, including protests in front of the Embassy of Uganda in Hellerup against that country's Anti-Homosexuality Act of 2014. She also delivered lectures at schools of continuing studies.[2]

Complaint

3.1 The author submits that, if returned to Uganda, her life would be in danger at the hands of the police and ordinary people. She adds that she fled repression not only as a lesbian but also as a woman, given that Uganda is an extremely patriarchal country. She underlines what she claims to be the homophobic nature of the country, as attested to by a bill before Parliament to prohibit the promotion of what are termed "unnatural sexual practices".

3.2 The author asserts that her case was not properly investigated by the Refugee Appeals Board and complains about its failure to provide reasoning for its decision on whether the Convention would be violated in the event of her being returned. She states that the Board denied her request to have her girlfriend in Denmark appear before it as a witness.

3.3 Because the Board's final decision of 5 December 2014 did not reflect her name accurately and was corrected subsequently only by hand, the author maintains that her application for protection against persecution as a woman was not taken seriously. Furthermore, the Board denied her request to call a witness to testify in her case during its proceedings.

State party's observations on admissibility and the merits

4.1 By a note verbale of 14 July 2015, the State party submitted its observations on the admissibility and the merits of the communication.

4.2 The State party submits that the author has failed to establish a prima facie case for the purpose of admissibility of her communication. It adds that the Refugee Appeals Board was unable to accept any part of the author's statements as fact and recalls inconsistencies in her statements.

4.3 Furthermore, the State party provides a comprehensive description of the organization, composition, duties, prerogatives and jurisdiction of the Board and the guarantees for asylum seekers, including legal representation, the presence of an interpreter and the possibility for asylum seekers to make a statement on appeal. It notes that the Board has a comprehensive collection of general background material on the situation in countries from which the State party receives asylum seekers, updated and supplemented on a continual basis from various recognized sources, all of which it takes into consideration when assessing cases.

4.4 Referring to *M.N.N. v. Denmark*,[3] the State party maintains that the extraterritorial effect of the Convention may obtain only where it is foreseeable that serious gender-based violence would occur upon the author's return. It therefore

[1] The author has not invoked her conversion as a ground for asylum, nor has she raised it in her communication before the Committee.

[2] No further details are provided.

[3] CEDAW/C/55/D/33/2011.

submits that the risk of such violence must be real, personal and foreseeable. In that regard, the State party asserts that the author has failed to establish a prima facie case for the purposes of the admissibility of her communication to the Committee under article 4 (2) (c) of the Optional Protocol, on the grounds that she has not substantiated that she would be exposed to a real, personal and foreseeable risk of serious forms of gender-based violence if she were returned to Uganda.

4.5 Should the Committee find the communication to be admissible and proceed with its consideration of the merits, the State party asserts that the author has not sufficiently substantiated that she would be exposed to a real, personal and foreseeable risk of serious forms of gender-based violence if returned to Uganda.

4.6 With respect to the author's identity, the State party submits that, when considering the author's asylum application, the Danish Immigration Service wrongly determined that the author's identity was that of a Ugandan national, A.N., born on 12 November 1973, who had entered Denmark on 6 April 2012 in possession of a valid travel document and a valid business visa issued by the Embassy of Norway in Kampala.

4.7 On 31 January 2013, the Danish Immigration Service rejected the author's asylum application under section 7 of the Aliens Act. The author appealed against that decision and, on 18 April 2013, the Refugee Appeals Board remitted the case to the Service for reconsideration and further investigation into the author's identity. On 28 May 2014, the Service again rejected the author's asylum application. The decision was again wrongly addressed to A.N. because, owing to a regrettable error, the author's name had not been corrected in the Service's aliens register. The author appealed against that decision, and the Board's decision of 5 December 2014 also wrongly bore the name of A.N. However, the author's statement on her correct identity was accepted as fact, and the decision was corrected three days later with her real name, A.S.

4.8 The State party further submits that the issue of the author's identity has been sufficiently examined by the national authorities, that her statement on her identity has been accepted as fact and that she has failed to substantiate any breach of the Convention on account of that issue. Her claim that the failure to reregister her name constitutes discrimination against women is completely unsubstantiated and, in the opinion of the State party, evidently incorrect.

4.9 Regarding the author's grounds for asylum, the State party recalls that the Board dismissed, in its entirety, the author's statement concerning those grounds, including her sexuality and her reason for leaving Uganda. In its assessment of the author's credibility, the Board emphasized that the author had made inconsistent, elaborative and sketchy statements on crucial elements of her grounds for asylum and that parts of her statements also appeared unlikely. The Board considered, in particular, the author's statements with respect to when and how she had discovered that she was a lesbian and on her sexual relationships with other women. In that respect, the State party recalls that, during the asylum proceedings, the author made the following statements:

(a) On 7 January 2013, she told the Danish Immigration Service that she had discovered that she was a lesbian in 2007, when some women had come to the bar and asked her whether she would like to become involved in a lesbian sexual relationship. She had first watched two of the women have sex before deciding to start having relationships with women herself. She had had one lesbian relationship, with a woman named J.N., which had lasted from 2007 to 2011;

(b) In a brief submitted for the purpose of the hearing before the Board on 5 December 2014, the author explained that she had had sex with another girl,

named A., at the age of 10 years and that she currently had a girlfriend in Denmark named I.N.;

(c) At the hearing before the Board on 5 December 2014, she stated that she had realized that she was a lesbian in 2007, when she had been with a woman named J., but also that she had known that she was a lesbian before her marriage. She had then stated that her relationship with I., her current girlfriend, had started in September or October 2012. When informed that she had not mentioned that relationship previously during the asylum proceedings, the author responded that she had not been asked that question.

4.10 The Board also determined that the author was unable to give a detailed account of the operation of the bar that she, by her own account, had owned and run for four years, and that it appeared peculiar that she was able to operate the bar for that period without experiencing any problems with customers or the authorities, despite her statement that some customers had been openly lesbian.

4.11 The Board further emphasized that the author had also been unable to provide details of the planning and financing of her escape to Rwanda prior to her arrival in Denmark, including the names of the women with whom she had escaped to and stayed in Rwanda. The Board considered it unlikely that the home of the author's mother, which was located between 80 and 100 km from the bar, had been searched because of the incident at the bar on 6 November 2011.

4.12 Accordingly, the Board determined that the author had failed to demonstrate the probability, if she were returned to her country of origin, of her being at a specific and individual risk of persecution, under section 7 (1) of the Aliens Act, or of inhuman treatment or other punishment, under section 7 (2) of the Act. Against that background, the Board upheld the decision of 28 May 2014 of the Immigration Service to refuse asylum to the author. The State party fully endorses the Board's conclusion that the author's statements on crucial elements of her grounds for asylum are inconsistent, elaborative and sketchy and that parts of her statements appear unlikely. The State party therefore submits that it does not accept the author's grounds for seeking asylum as a fact, nor that she is a lesbian. As to the author's claim that she is fleeing repression not only as a lesbian but also as a woman, the State party is of the view that the general situation of women in Uganda cannot justify the granting of asylum.

4.13 With respect to the author's activities in Denmark and her argument that she has been active in the lesbian, gay, bisexual and transgender community since arriving in the country, the State party reaffirms that neither the Board nor the Government accepts that the author is in reality a lesbian or that she experienced conflicts with the authorities or private individuals in Uganda owing to her sexuality before her departure in 2012. Moreover, it cannot be accepted that the author will be at risk of persecution or abuse in Uganda solely as a result of her participation in the above-mentioned activities, the likes of which she failed to mention when interviewed by the Immigration Service on 7 January 2013.

4.14 With respect to the author's allegation that she was not allowed to call a witness at the Board hearing of 5 December 2014, the State party indicates that the author has failed to substantiate how that refusal resulted in any breach of the Convention in her case. The State party further recalls that, under section 54 (1) of the Aliens Act, the Board has the power to decide on the examination of asylum seekers and witnesses and on the production of other evidence. According to the Board's jurisprudence, asylum seekers are typically allowed to call witnesses only in cases in which they are directly linked to the grounds for seeking asylum. Witnesses are thus not normally allowed to give evidence solely with regard to the asylum seeker's general credibility. In the present case, the author wished to call her alleged girlfriend to testify with

regard to her sexuality. Such a witness would not have been in a position to contribute information on the author's situation in Uganda prior to her departure, given that, by her own account, they had met only since her arrival in Denmark. The witness, therefore, had no direct link to the author's grounds for seeking asylum and the Board turned down the author's request. That decision was by no means based on the author's gender, nor on the gender of the witness, as the rules governing the calling of witnesses are gender-neutral.

4.15 With regard to references to the Convention, the State party submits that the fact that the Board made no explicit reference to the Convention in its decision of 5 December 2014 in no way means that the Board failed to take it into account. The Convention, along with other international human rights treaties, forms an integral part of the Board's assessment of asylum cases.

4.16 Lastly, the State party submits that the author's communication to the Committee merely reflects that the author disagrees with the Board's assessment of her case. However, she has failed to identify any irregularity in the decision-making process or any risk factors that the Board has not taken properly into account. She is, in fact, attempting to use the Committee as an appellate body to have the factual circumstances submitted in support of her claim for asylum reassessed. The State party submits that the Committee must give considerable weight to the facts found by the Board, which is better placed to assess the factual circumstances of the author's case. There is, in the view of the State party, no basis for doubting, let alone setting aside, the Board's assessment, according to which the author has failed to establish that there are substantial grounds for believing that she would be subject to a real, personal and foreseeable risk of persecution if returned to Uganda, and that the necessary and foreseeable consequence of her return is that her rights under the Convention would be violated. Returning her to Uganda would, therefore, not constitute a breach of article 1, 2 or 3 of the Convention.

Author's comments on the State party's observations on admissibility and the merits

5.1 On 29 February 2016, the author submitted her comments on the State party's observations on admissibility and the merits.

5.2 Reaffirming her earlier statements and referring to paragraph 16 of the Committee's general recommendation No. 32 (2014) on the gender-related dimensions of refugee status, asylum, nationality and stateless of women, she stresses that, as a lesbian, she would be exposed to gender-based persecution if she were returned to Uganda.

5.3 The author refers to the jurisprudence of the Human Rights Committee in cases against Denmark[4] and reaffirms that there were procedural irregularities in the treatment of her case by the Danish asylum authorities, including the denial of her request to call a witness, and the fact that she was mistakenly identified as another person, which affected her general credibility and shows that she was not taken seriously. The author recalls the absence of any mention of the Convention in proceedings regarding her case, adds that it has not been incorporated into the State

[4] See, for example, *Osayi Omo-Amenaghawon v. Denmark* (CCPR/C/114/D/2288/2013), in which the Human Rights Committee found in favour of a woman from Nigeria who had fallen victim to trafficking in persons.

party's national legal order[5] and asserts that the State party does not consider the views of the Committee to be legally binding.

5.4 The author notes that, although the State party asserts that it refers to background reports, it has not elaborated on the treatment of gay people in Uganda. She adds that she would have no police protection, given that homosexuality is not accepted there. She further stresses that the fact that she lives openly as a lesbian in Denmark and participates in events with the local lesbian, gay, bisexual and transgender community[6] would be brought to the attention of the Ugandan authorities. Furthermore, the test is whether she can return to her country of origin and continue living there openly as a lesbian, in the same manner as she does in Denmark.

5.5 The State party challenges the author's credibility as a lesbian. At the same time, it denied the calling of a witness who would have been able to prove that the author is a lesbian. The author does not argue that the failure to call a witness constituted an instance of gender-based discrimination, but rather that it was a procedural violation affecting her right to fair proceedings.

5.6 In conclusion, the author reiterates that her removal to Uganda would expose her to serious forms of violence and constitute a breach of articles 1–3 of the Convention. She requests a new hearing before the Refugee Appeals Board, in which her partner should be allowed to testify and her claims should be re-examined in the light of the Convention.

State party's additional observations

6.1 On 8 November 2016, the State party submitted additional observations, in which it reiterates all its previous observations. It reaffirms that, based on an overall assessment, the Refugee Appeals Board determined that the author's submission, including her claim to be a lesbian, lacked credibility to the extent that it had to be dismissed in its entirety.

6.2 With regard to images submitted by the author to substantiate her claim that she would face a heightened risk of persecution in Uganda as a result of her participation in events relating to the lesbian, gay, bisexual and transgender community in Denmark, the State party observes that the author submitted that material to the Board on 1 December 2014 for her hearing of 5 December, and that the Board was therefore aware of it when it made its decision.

6.3 With respect to general background information on the situation of gay people in Uganda, the State party observes that, even had the Board accepted that the author was a lesbian as a matter of fact, that alone would not justify the granting of residence rights under section 7 of the Aliens Act. The Board considered the current background information available, including a report on the situation of lesbian, gay, bisexual and transgender persons in Uganda published jointly by the Danish Immigration Service and the Danish Refugee Council on 6 January 2014, the 2013 Uganda country report on human rights practices published by the Department of State of the United States of America on 27 February 2014 and a report entitled "Uganda: claims based on sexual orientation", a country information and guidance report published by the Home

[5] See CEDAW/C/DNK/CO/8, para. 11: "The Committee "regrets that, notwithstanding its previous recommendation (CEDAW/C/DEN/CO/7, para. 15), the State party decided in October 2014 not to incorporate the Convention into its national legal order. In that regard, the Committee is concerned that the State party's Supreme Court has ruled that non incorporated treaties do not have the same status in national law as incorporated treaties."

[6] The author produces photographs from her participation in Copenhagen Pride in August 2014, as well as an undated statement from LGBT Asylum, according to which the author participated in a demonstration against the Ugandan Anti-Homosexuality Act on 7 March 2014, in Aarhus Pride on 24 May 2014 and in Copenhagen Pride.

Office of the United Kingdom of Great Britain and Northern Ireland on 10 April 2014. It appears from those sources, in the view of the State party, that, although conditions in Uganda can be difficult in certain circumstances, lesbian, gay, bisexual and transgender people are not routinely or systematically targeted by the authorities. Although homosexuality is prohibited in Uganda under section 145 of the Penal Code Act of 1950, no one has been convicted of homosexuality[7] and support networks have been set up. Moreover, the Constitutional Court of Uganda struck down the controversial Anti-Homosexuality Act on 1 August 2014.

6.4 The State party further refers to the most recent background reports on the situation in Uganda,[8] which it claims confirm that, although conditions can be difficult in certain circumstances, there is no routine or systematic targeting by the authorities or the public. There is no basis for assuming that the author's activities in Denmark have exposed her to such an extent that she would be persecuted. Accordingly, the State party reiterates that the author does not face a real risk of persecution in Uganda and that her return would not breach article 1, 2 or 3 of the Convention.

6.5 With respect to the author's argument that the Convention was not mentioned in the national-level proceedings, the State party stresses that, although the Convention is not explicitly referred to in the vast majority of the Board's decisions, Denmark is bound by underlying international conventions, from which national protection emanates. By way of illustration, the State party refers to the explanatory note to the bill amending the Aliens Act, concerning section 7 (2), which provides that residence permits should be issued to aliens (other than those falling under the 1951 Convention relating to the Status of Refugees) who have a right to protection under those conventions to which Denmark has acceded. It is further explained in the note that section 7 (2) is drafted in accordance with article 3 of the European Convention for the Protection of Human Rights Fundamental Freedoms and its Protocol No. 6, as well as article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Board obviously also undertakes, as part of its non-refoulement analysis, an assessment of the possible discrimination against women to which asylum seekers would be exposed in case of return, and any assessment under section 7 of the Act comprises the risk of gender-specific abuse.

6.6 In conclusion, the State party reiterates its opinion that the author has failed to establish a prima facie case for the purpose of admissibility of her communication, which is manifestly ill-founded. Should the Committee find the communication admissible, the State party submits that it has not been established that there are substantial grounds for believing that it would constitute a violation of the Convention to return her to Uganda. Lastly, the Government wishes to draw attention to the statistics on the case law of the Danish immigration authorities, which show, among other things, the recognition rates for asylum claims from the 10 largest national groups of asylum seekers decided by the Board between 2013 and 2015.

[7] See United Kingdom, Home Office, "Uganda: claims based on sexual orientation", Country Information and Guidance (London, 2014), para. 1.4.3: "Under anti-gay legislation before the enactment of the AHA (Anti-Homosexuality Act), the State did not generally enforce the law, though there were reports that LGB persons were arrested by the police for lesser offences, such as indecent assault, attempts to commit unnatural offences and being idle and disorderly. The evidence does not, however, indicate that LGB persons are routinely or systematically being targeted by the police."

[8] See, for example, *World Report 2016: Uganda*, published by Human Rights Watch on 27 January 2016, *Amnesty International Report 2015/16: Uganda*, published by Amnesty International on 24 February 2016, and the 2015 Uganda country report on human rights practices, published by the Department of State of the United States on 13 April 2016.

Further submissions from the parties

7.1 On 16 March 2017, the author submitted additional information, in which she disagrees with the background information provided by the State party, in particular the claim that there is no routine or systematic persecution. She stresses that homosexuality is criminalized in Uganda and refers to a bill before Parliament on the prohibition of what are termed "unnatural sexual practices". She also mentions the cases[9] of two lesbians from Uganda who were relocated to European countries after being recognized as refugees by the Office of the United Nations High Commissioner for Refugees in Kenya.

7.2 On 7 July 2017, the State party submitted that it had no further observations and relied on its previous submissions.

Issues and proceedings before the Committee

Consideration of admissibility

8.1 In accordance with rule 64 of its rules of procedure, the Committee must decide whether the communication is admissible under the Optional Protocol. Pursuant to rule 66, the Committee may decide to consider the admissibility of the communication separately from its merits.

8.2 In accordance with article 4 (2) (a) of the Optional Protocol, the Committee is satisfied that the same matter has not been and is not being examined under another procedure of international investigation or settlement.

8.3 The Committee notes that the author claims to have exhausted domestic remedies and that the State party has not challenged the admissibility of the communication on that ground. The Committee observes that, according to the information available to it, appeals against decisions of the Refugee Appeals Board cannot be lodged before national courts. Accordingly, the Committee considers that it is not precluded by the requirements of article 4 (1) of the Optional Protocol from considering the matter.

8.4 The Committee recalls the author's claim that her life would be in danger at the hands of the police and ordinary people if she were returned to Uganda given that her sexual orientation is known as a result of an incident that occurred when she was working in a bar in Uganda in 2011, which was followed by a visit by the police to her mother's house. She has also claimed that, because of her subsequent involvement in public demonstrations relating to lesbian, gay, bisexual and transgender matters in Denmark, she has attracted the attention of the Ugandan authorities. She therefore claims that, if the State party returned her to Uganda, she would be personally exposed to a risk of serious forms of gender-based violence, as defined under articles 1–3 of the Convention. She also asserts that the State party should have independently investigated the risk that she faces in Uganda and referred explicitly to the Convention during proceedings regarding her application for asylum. She has also questioned the fairness of those proceedings, because she was not allowed to call a witness and the decisions taken by the authorities were initially addressed to another individual.

8.5 The Committee refers to its general recommendation No. 32 (2014), in which it states that, "under international human rights law, the non-refoulement principle imposes a duty on States to refrain from returning a person to a jurisdiction in which he or she may face serious violations of human rights, notably arbitrary deprivation of life or torture or other cruel, inhuman or degrading treatment or punishment" (para. 21). The Committee recalls, in particular, that "gender-related claims to asylum

[9] Cases referred to in the press in 2016.

may intersect with other proscribed grounds of discrimination, including age, race, ethnicity/nationality, religion, health, class, caste, being lesbian, bisexual or transgender and other status" (para. 16). The Committee further refers to its general recommendation No. 19 (1992) on violence against women, in which it recalls that "gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention", and that such rights include the right to life and the right not to be subject to torture (para. 7). The Committee has further elaborated its interpretation of violence against women as a form of gender discrimination in its general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, in which it reaffirms the obligation of States parties to eliminate discrimination against women, including gender-based violence, resulting from the acts or omissions of the State party or its actors, on the one hand, and non-State actors, on the other (para. 21).

8.6 In the case at hand, the Committee observes that there is no claim that the State party has directly violated the provisions of the Convention, but rather that the violation would occur if the State party returned the author to Uganda, thereby exposing her to the risk of serious forms of gender-based violence at the hands of the police or of private individuals hostile to gay people.

8.7 The Committee takes note of the State party's argument that the author's allegations were thoroughly examined by the Danish Immigration Service and Refugee Appeals Board, which dismissed them in their entirety because of a negative credibility finding that vitiated her claim (see paras. 4.9–4.12). The Committee recalls that it is generally for the authorities of States parties to the Convention to evaluate the facts and evidence or the application of national law in a particular case,[10] unless it can be established that the evaluation was biased or based on gender stereotypes that constitute discrimination against women, was clearly arbitrary or amounted to a denial of justice.[11] In that regard, the Committee notes that, in substance, the author is challenging the manner in which the State party's authorities assessed the factual circumstances of her case, applied the provisions of legislation and reached conclusions. The issue before the Committee is, therefore, whether there was any irregularity in the decision-making process regarding the author's asylum application, to the extent that the State party's authorities failed to properly assess the risk of serious gender-based violence in the event of her return to Uganda.

8.8 The Committee notes that the State party's authorities found that the author's account lacked credibility owing to a number of factual inconsistencies and a lack of substantiation, in particular with regard to her claim to be a lesbian and her account of the incident that allegedly occurred in 2011 in a bar in Katwe. The Committee further notes that, notwithstanding the credibility findings with respect to the author described above, the State party also considered the human rights situation in Uganda and, in particular, the situation of gay people in Uganda. The State party maintains that, although homosexuality is prohibited under the Penal Code, the prohibition has not been enforced and no one has been convicted of homosexuality. Available evidence referred to by the State party further indicates that there is no routine or systematic targeting of gay people. The Committee further notes that, on 1 August 2014, the Constitutional Court of Uganda struck down the Anti-Homosexuality Act.

8.9 In the light of the foregoing, and while not underestimating the concerns that may legitimately be expressed with regard to gender-based discrimination in Uganda,

[10] See, for example, *S.J.A. v. Denmark* (CEDAW/C/68/D/79/2014), paras. 7.9–7.10.

[11] See, for example, *N.Q. v. United Kingdom of Great Britain and Northern Ireland* (CEDAW/C/63/D/62/2013).

also given that it intersects with homosexuality,[12] the Committee considers that the author has failed to substantiate, for admissibility purposes, that the lack of reference to the Convention in her asylum decision, or the refusal to call a witness, stemmed from or resulted in any gender-based discrimination. Nor is there any element on file to allow the Committee to conclude that the State party authorities failed to give sufficient consideration to the author's application for asylum, or that, in the examination of her case, that of a female asylum seeker, there was any procedural defect or arbitrariness. The Committee also considers that the author has failed to substantiate sufficiently that the initial mistake in the name of the addressee in the decisions of the Danish Immigration Service and Refugee Appeals Board, which was subsequently corrected in the Board's final decision of 5 December 2014, resulted in any breach of the Convention in her respect.

9. The Committee therefore decides that:

(a) The communication is inadmissible under article 4 (2) (c) of the Optional Protocol;

(b) This decision shall be communicated to the State party and to the author.

[12] See CEDAW/C/UGA/CO/7, paras. 43–44.